

Superfund companies seek to settle feud over costs

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leaves it up to the companies to jointly decide how much each should contribute

Opponents of the Superfund law say this practice makes companies spend more money on lawyers than on actual cleanups of Superfund sites

The town of Bennington has already paid more than \$100,000 in lawyers' fees, town officials have said

The study is expected to cost between \$1 and \$2 million. A full-blown cleanup could cost more than \$20 million, and the companies also must repay the EPA about \$200,000 for the federal agency's investigation of the site, EPA spokesperson James Sebastian said.

The companies originally agreed to split themselves into two tiers — larger and smaller companies — which would each pay different amounts of the costs, participants said.

But that plan was tentative and will be replaced by the arbitration plan, companies said.

The arbitrator will decide how much each company should pay. That decision apparently will be made on the basis of the amount of waste each company dumped at the landfill — not by each company's ability to pay.

All the companies are filling out questionnaires that detail their use of the dump. They must be completed by Dec. 2, Ryan said.

The town wanted one standard questionnaire, Ryan said, but the private companies succeeded in pushing through separate questionnaires.

"In the end, we got outvoted," he said.

There are now three separate questionnaires: one for the town, which owned the dump, one for East Mountain Transport, the only company that hauled some of the waste

and one for the companies which used the dump. Banner Publishing Corp., Bennington Iron Works, Bijur Lubricating Corp., Chemical Fabrics Corp., Courtaulds Structural Composites Inc., East Mountain Transport, Eveready Battery Co. Inc., GC/DC Inc. and Johnson Controls Inc.

Town officials have worried that the private companies which use the dump will try to make the town pay more than its fair share, since the town can pass the costs to the taxpayers.

"It's not a question of what's fair; it's a question of what's law," Ryan conceded.

Bennington taxpayers will not know how much they will have to pay for the cleanup until after the amount is determined by the arbitrator.

And it will be difficult to compare with the amount companies eventually pay, since the companies have insisted that information remain confidential.

Ryan said the town agreed that formal arbitration "is the way to go." But he indicated that the town should not be expected to pay most of the costs of the cleanup just because it owned the dump.

"As absurd as that sounds, we don't generate any toxic materials," said Ryan, referring to the fact that the town owned the dump but did not use it. "We think that the generation and disposal of toxic materials carries a greater responsibility than simply receiving them."

Thomas Jacobs, the attorney for Courtaulds as well as two companies that did not agree to clean up the

dump, said the three separate questionnaires will give the arbitrator more information to allocate the costs.

"I think it's probably just a question of everyone in their own way wanting to get as much information to the arbitrator but at the same time not wanting to jeopardize their prospective positions," Jacobs said.

The arbitration firm has not yet been selected, participants said, and it is not clear how much that firm will charge the companies to divvy up the EPA's bill and the other costs.

Sebastian said EPA representatives will be coming to Bennington on Wednesday and Thursday of next week to talk to neighbors of the dump and develop the EPA's public relations campaign.

Superfund companies attempt to end feud on landfill cleanup

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BENNINGTON — In the six months since the Environmental Protection Agency identified the Town of Bennington and 26 local companies the EPA says are responsible for toxic waste at the closed Bennington landfill, those companies have been feuding about how much each should pay of the costs for studying and cleanup — estimated in the millions of dollars.

"The EPA has pitted one (company) against the other — or in some cases, all against one," said Bennington Town Manager Kevin Ryan.

Twelve of the 27 companies have agreed to clean up the dump on Houghton Lane. The others risk being sued by either the EPA or the companies that did

consent to the EPA's demand.

The town and 11 cooperating companies have agreed to hire a professional Superfund arbitration firm to decide who should have to pay how much.

"This is not something we went out and chose to do," Ryan said, referring to the companies' decision to seek arbitration.

Acting on a consent order from the EPA, the town and the 11 companies next week begin a study of the extent of pollution at the landfill on Houghton Lane.

The EPA requires the study of the landfill, a Superfund site, be performed by companies that owned or transported waste to dump, and the companies that owned the dump.

The EPA is holding all the companies responsible but

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